

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,) Case No. 4:16-CR-182-DGK-1
Plaintiff,)
VS.)
KEILON L. MADGE,) January 22, 2019
Defendant.) Kansas City, Missouri

TRANSCRIPT OF SENTENCING
BEFORE GREG KAYS
UNITED STATES DISTRICT JUDGE

APPEARANCES:

15 For United States: Stefan Hughes
16 U.S. Attorney's Office
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17 Suite 5510
Kansas City, Missouri 64106
18 For Defendant: Sean W. Pickett
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25 Proceedings recorded by mechanical stenography, transcript produced by computer.

1 (Begin proceedings in open court at 11:01 a.m.)

2 THE COURT: This is Case 16-182-01, Mr. Keilon L.
3 Madge. Welcome, Mr. Madge.

4 Mr. Madge appears with his attorney, Mr. Sean
5 Pickett.

6 MR. PICKETT: Yes, Judge.

7 THE COURT: You all -- you don't have to stand. I'm
8 going to be long winded here. Thank you all. Mr. Pickett
9 appears with his client, Mr. Madge, today. Also appearing
10 today is Assistant United States Attorney, Mr. Stefan Hughes,
11 and United States Probation Officer, Ms. Penny Hodges.
12 Welcome to everyone.

13 This case is called today for a sentencing hearing.
14 I note that Mr. Madge appeared in this court on November 22nd,
15 2017, and entered a plea of guilty to Count 2 of a three-count
16 indictment. Count 2 was -- he was charged with distribution
17 of more than 28 grams of cocaine. Upon his plea of guilty
18 this Court ordered a presentence investigation to be
19 completed. That has been accomplished, and the Court has
20 reviewed that.

21 Mr. Madge, sir, my first responsibility is to
22 accurately calculate the guidelines, and I do so with the help
23 and expertise of Mr. Pickett, of Mr. Hughes, and Ms. Hodges.
24 So at this time we'll endeavor to do that.

25 I note, Mr. Pickett, you've advanced a number of

1 objections. Would you like to say anything in support of
2 those objections?

3 MR. PICKETT: Judge, given our plea agreement, and
4 our understanding of the criminal history at the time of
5 negotiating that plea agreement, we made some objections
6 pursuant to my conversations with Mr. Madge, as the Court
7 knows, going back and forth into custody, and explaining those
8 issues with him, making those objections timely so that
9 they're on the record. Since then, Judge, there has been a
10 downward departure motion filed by the government. In an
11 effort to protect those, should that cooperation not have been
12 deemed appropriate, those objections were made. Mr. Madge
13 understands those objections. We're, for purposes of
14 guideline arguments and he understands given where we're at
15 today, that those objections may not be -- may not be proper
16 at this time. And therefore, he's waiving those objections
17 that he made in the PSI, Judge.

18 THE COURT: Okay. Mr. Hughes, did you agree with
19 any of those objections to begin with, I guess?

20 MR. HUGHES: Judge, I don't believe I did. I --
21 I --

22 THE COURT: But notwithstanding your agreements.
23 Because I know there's an agreement part. My -- my position
24 is I have to accurately calculate those -- those guidelines.
25 And I do so -- I don't always agree with the lawyers.

1 Sometimes there's negotiations that take place, but I believe
2 that those guidelines were calculated correctly. I understand
3 Mr. Pickett has a job to do, an important job, and he advances
4 his objections. He would not be successful on these
5 objections, the way I look at the guidelines, but I just was
6 curious if you had a position different than that.

7 MR. HUGHES: I agree with the Court and probation
8 office.

9 THE COURT: Okay. Okay. Very good. So that's what
10 we'll -- that's how we'll proceed then. I'm going to show
11 those objections were withdrawn at this time.

12 That gives us a total offense level of 31, a
13 criminal history category of VI, Mr. Madge, and always I
14 always tell people that's the criminal history category we get
15 to under the federal guideline system. So you're a VI. That
16 gives us a guideline range of 188 to 235 months. Statutory
17 range is 5 to 40. Supervised release range is four to five
18 years. Fine range of 30,000 -- bless you -- to \$5 million.

19 MS. HODGES: Excuse me.

20 THE COURT: Special assessment of \$100. Mr. Hughes,
21 sir, is it -- bless you.

22 MS. HODGES: Excuse me.

23 THE COURT: Is there a -- a restitution or money
24 judgment agreement in this case, sir?

25 MR. HUGHES: No, Your Honor.

1 THE COURT: Okay. So at -- do you agree with those
2 calculations then, Mr. Hughes?

3 MR. HUGHES: I do, Your Honor.

4 THE COURT: Bless you. Do you need a Kleenix?

5 MS. HODGES: I have one. Thank you, Your Honor.

6 THE COURT: All right.

7 MS. HODGES: Thank you.

8 THE COURT: Mr. Pickett, sir, not -- based on the
9 objections that you've withdrawn, do you agree the Court's at
10 least calculated the guidelines at this time correctly, sir?

11 MR. PICKETT: Yes, Judge.

12 THE COURT: All right. So Mr. Madge, sir, that is
13 our starting point. That's how we begin this process. I note
14 the government's filed a motion, document 43. I've reviewed
15 that. Mr. Hughes, what do you recommend we do in this case?

16 MR. HUGHES: Judge, I always feel a little
17 uncomfortable, because ultimately you're the final arbiter on
18 what is going to be a fair and just sentence.

19 THE COURT: Could the attorneys come forward for
20 just a second? Just one moment.

21 (Bench conference on the record outside the hearing of
22 the gallery.)

23 THE COURT: Someone just walked in the courtroom. I
24 mean, I usually want to ask him questions about how meaningful
25 this was and have him kind of quantify the value of it, so it

1 gives me an idea. Can we do that with some --

2 MR. PICKETT: I think so. I believe that's his
3 father.

4 THE COURT: Okay.

5 MR. PICKETT: Let me double-check, Judge.

6 THE COURT: Okay. Okay.

7 MR. PICKETT: Sorry, Judge.

8 THE COURT: Could you speak up just a little bit?

9 MR. PICKETT: Judge, that is his father. And he's
10 not comfortable letting his father know that he's cooperated
11 in this case.

12 THE COURT: That he's what?

13 MR. HUGHES: He's not comfortable letting his father
14 know that he cooperated.

15 THE COURT: Okay. How are we going to do this,
16 guys?

17 MR. HUGHES: I'll do whatever you want me to do.

18 THE COURT: Well, let's talk -- let's talk then
19 right now. With your permission, I guess, Mr. Pickett,
20 because we're going to do this in front of your client. Do
21 you -- I mean, based on this motion, I think you put -- you
22 quoted the officer saying that he stuck his neck out.

23 MR. HUGHES: Yeah. And he was -- he was emphatic on
24 that. He came to my office and wanted to meet me
25 face-to-face.

1 THE COURT: Yes, sir.

2 MR. HUGHES: And he said that in ordinary kind of
3 homicide cases what he did was literally stuck his neck out,
4 because he didn't have a --

5 THE COURT: They resolved the case too.

6 MR. HUGHES: I think they did.

7 THE COURT: Based on that.

8 MR. HUGHES: Yeah. But the detective was really
9 impressed with the fact that this guy came forward, because
10 ordinarily, and, you know, we have reason to believe he's a
11 gang member. And, you know, the gang rules don't usually
12 allow for that, but he did that. And like I said, the
13 detective was very impressed with him. Came -- sought a
14 face-to-face with me to talk about that.

15 THE COURT: Okay. Okay. That's what I need to
16 know. That helps him a lot. I mean, to be quite honest with
17 you, Mr. Pickett, this is a guy I'm probably above guidelines
18 on him, all things remaining equal, given this nasty, ugly
19 criminal history. But this is going to help him, and -- and I
20 want him to know, and I know you'll communicate that with him,
21 that --

22 MR. PICKETT: I will.

23 THE COURT: -- this is normally above -- he's going
24 to die in prison type of case. But he's going to get some
25 benefit out of this. Okay?

1 MR. PICKETT: Yes, sir.

2 THE COURT: How much arguments do you guys want to
3 make?

4 MR. HUGHES: I wasn't going to make any, Judge.

5 THE COURT: Okay. Just consider the file and things
6 filed.

7 MR. HUGHES: Right.

8 MR. PICKETT: My arguments are mostly under the
9 factors, Judge. The biggest one is the pre-indictment, the
10 case was -- the facts were in 2011.

11 THE COURT: Yes, sir.

12 MR. PICKETT: He was indicted in 2016. There was a
13 lot of things under the bridge, even though he got violated on
14 his supervised release.

15 THE COURT: You know, it's pretty sad he's not
16 comfortable doing this in front of his own father, but that's
17 kind of illustrated here in this PSR, right? And that's the
18 world we live in, unfortunately.

19 MR. PICKETT: That's right, Judge.

20 THE COURT: So I'm just going to pitch it to you
21 guys, and you guys say what you want to say, and then I'll
22 consider the factors, and I'll render his sentence. Okay?

23 MR. PICKETT: Thank you, Judge.

24 THE COURT: Okay. Thank you.

25 (End of bench conference.)

1 THE COURT: All right. Mr. Hughes, do you wish to
2 make a statement for the Court? I've read your filings, I've
3 considered this file, and Mr. Madge's considerable criminal
4 history. Do you wish to say anything else in support of this
5 case?

6 MR. HUGHES: No, Your Honor.

7 THE COURT: Very good.

8 Mr. Pickett, sir, do you wish to be heard?

9 MR. PICKETT: Judge, yes, briefly if I could.

10 THE COURT: Yes, sir.

11 MR. PICKETT: Is it okay if I stand here?

12 THE COURT: Wherever -- wherever you feel
13 comfortable, sir. Just as long as we can hear.

14 MR. PICKETT: Sometimes I'm a little soft spoken, so
15 I'll --

16 THE COURT: Well, I haven't seen that today yet, Mr.
17 Pickett. We look forward to hearing the soft spoken.

18 MR. PICKETT: Sometimes that happens, Judge. Judge,
19 I've known Mr. Madge and his family for some -- some time, a
20 little over 10 years. And although I was not real familiar
21 with him, I was more with the rest of his family, some of his
22 brothers and those things. Mr. Madge, in my dealings with
23 him, previously time or to my knowledge of him, led him here.
24 I didn't always represent him on anything serious, but those
25 things are in his criminal history, Judge. And he stands here

1 under the guideline sentence that we currently have.

2 What I would like for the Court to consider are
3 those minimum -- the minimum sentence that the Court thinks
4 that this young man -- or actually he's not that young
5 anymore -- needs to be sentenced to in order for those
6 particular crimes that he's charged with, and his relevant
7 conduct, to effect the sentence the Court thinks is proper.

8 The factors I believe under 3553, Judge, that are
9 important in this case, that stands out different than most of
10 my clients, are that his actions in this case occurred in
11 2011. They were hand to hands with police officers. He was
12 not indicted on those, Judge, until 2016 in this case.
13 Previous to that point, Judge, he had stepped away from those
14 types of incidents, from his interaction with police. And the
15 Court may have some information about other things that showed
16 that he had stepped away from those incidents, but was still
17 living in the neighborhood and still aware of what was going
18 on. It's hard for him to step away. It's hard for many of my
19 clients to step away given their backgrounds and given their
20 economics and given what they've done. You've seen the
21 multiple children that he has and different things that he was
22 doing to try to provide. Once he started to try to provide to
23 those children, Judge, and that occurred approximately 2012,
24 2013, that's when I became a lot more aware of Keilon Madge as
25 opposed to some other people in the family.

1 And he was coming to my office in efforts for jobs,
2 in efforts for different opportunities, and those types of
3 things because I had become counsel on some civil matters for
4 the family. They had got into a trust situation with me, in
5 some ways, and that was the first thing I noticed about
6 Mr. Madge, Mr. Keilon Madge, was that he had stepped away from
7 some of the previous things that I was aware of, or
8 peripherally aware of, Judge.

9 He then became a person who was welcome to my office
10 and not a client at that point. And so that is a
11 pre-indictment rehabilitation step that I don't always see,
12 Judge, in this particular instance. There's no other way for
13 me to tell you that happened other than to just tell you like
14 I've told you. So that was something that I saw and I was
15 impressed with to him up to the point that he got indicted.

16 He had heard that there might be an indictment
17 coming down. He did not hide, he did not run. He kept
18 working. He kept in contact with my office. I don't know how
19 he was aware that it might happen, but things -- you hear
20 things on the streets, and he was very sullen and very
21 questioning his choices at that time, not necessarily to
22 continue to be good, Judge. Sometimes his -- he was
23 questioning his choices about how does he provide in the short
24 term, given what he knows. And those things, Judge, he chose
25 not to do. And may -- maybe because of my guidance, but maybe

1 not. And I think he'd already pulled himself out of it. So
2 that was something I was impressed with, Judge. And I don't
3 know how else to say it.

4 He had -- has always struggled with use, with
5 narcotics. He's in custody and not on bond now for some of
6 that reason, Judge. And so we would ask that whatever
7 sentence you give him, to the extent that he's going to be
8 able to qualify, that you recommend. There's the First Step
9 Act, has now given us some options. I still do not fully
10 understand the Act, having it become -- it's brand new. I
11 have read through it. I have contemplated it for him.

12 THE COURT: I don't think it -- he qualifies for any
13 relief under the First Step Act. Do you, Mr. Hughes?

14 MR. HUGHES: I don't want to say, Judge, because I'm
15 quite -- we're waiting for guidance from Washington.

16 THE COURT: Okay. A lot of this goes to second
17 consecutive sentences is the biggest part that I see. But go
18 ahead.

19 MR. PICKETT: Any relief on the classes that he
20 would be afforded --

21 THE COURT: Sure.

22 MR. PICKETT: -- afterwards, I believe he completely
23 qualifies for, lifetime wise. Whether or not his sentences
24 and his label would disqualify him, I'm not clear yet on.

25 THE COURT: Are you talking like RDAP program, is

1 that what you're talking about?

2 MR. PICKETT: RDAP. And under the First Step Act, I
3 read it, Judge, there's some other things that he can do class
4 wise within the Bureau that I think --

5 THE COURT: Okay. That was -- okay. It's a big
6 act. There's a lot in there.

7 MR. PICKETT: Right.

8 THE COURT: I got you. I got you, Mr. Pickett.

9 MR. PICKETT: And we're all just now learning a lot
10 about it.

11 THE COURT: Yes, sir.

12 MR. PICKETT: And so to the extent that the step --
13 First Step Act can help him in getting classes done while in
14 the Bureau, this is a person I think, Judge, that the -- that
15 is certainly to take advantage of those things there. But I
16 don't want the Court to rely on those in the sentence. Those
17 are things for him to take advantage of in the Bureau of
18 Prisons, given after sentence, getting some time off.

19 THE COURT: Okay.

20 MR. PICKETT: The way I read the First Step Act,
21 Judge.

22 THE COURT: All right. Very good.

23 MR. PICKETT: The fact of his age, of course, it's
24 easier for somebody his age to not recidivate. And perhaps
25 we've seen some of that in what I've already talked about. He

1 has multiple people relying on him. They understand that he
2 may be gone for some -- some time. But the fact that he would
3 have the opportunity to get back out and be involved is
4 something that I think he would be a productive aspect of that
5 fatherhood for those younger children. And what I've seen,
6 Judge.

7 He also has made, I think, two requests to the
8 Court, which I have not filed myself, for opportunity to
9 marry. There is somebody who does want to marry him. I
10 personally chose to not file that motion based on somebody
11 having a choice after he's sentenced, whether or not they
12 still want that. And so that's a motion that may be filed
13 post haste, Judge.

14 THE COURT: Yeah. I'm probably not going to get in
15 that business.

16 MR. PICKETT: Right.

17 THE COURT: That's between him and the Bureau of
18 Prisons. I try to stay out of that the best I can.

19 MR. PICKETT: Just wanted the Court to know that
20 there's that support there.

21 THE COURT: Yes, sir.

22 MR. PICKETT: And people who know where he's at and
23 still see the love and the value of him, even though he's not
24 currently married at that point to that person.

25 THE COURT: Yes, sir.

1 MR. PICKETT: For all those reasons, Judge, although
2 he stands here with a minimum guideline sentence of 188
3 months, because of his history, this young man -- this man is
4 not a person that I see as -- as a typical career offender.
5 As he stands here with you now based on the things that he's
6 changed after already having sentences that affected him at
7 that point and the bad choice that led him here. No matter
8 why he made it, what the economics were or what he was doing,
9 the aspects of that and everything he's done since then, we
10 want the Court to consider in the Court's recommended -- or
11 sentence.

12 THE COURT: All right. Thank you Mr. Pickett.

13 Mr. Madge, I think Mr. Pickett's done a good job for
14 you. And you don't have to say anything, but if you wish to
15 speak, you have a right to speak. We just ask that you stand
16 where you're at and speak in a clear voice if you wish to say
17 something. If you don't, that's fine too.

18 THE DEFENDANT: No, thank you.

19 THE COURT: All right. I'll show that Mr. Madge
20 chooses not to make a statement.

21 At this time, Mr. Madge, let me go through this
22 process with you. And I see people in the audience. Thank
23 you all for being here today to support Mr. Madge. We know
24 these are difficult days for Mr. Madge and those who support
25 and care about him.

1 So, Mr. Madge, I've had a lot to think about and
2 consider in your case. I think the government's been very
3 fair with you. I think Mr. Pickett makes some great arguments
4 related to the timing of this case, and how old these are.
5 And -- and, you know, your problem, of course, is you've got a
6 lengthy criminal history. That's -- that's kind of the
7 elephant in the room that you've -- you're a category VI
8 criminal history.

9 I've considered all of those factors. Also the
10 factors under 18 U.S.C. 3553(a), which Mr. Pickett has
11 referenced. Among the ones that are concerning are the need
12 to protect the public, the need for deterrence, the need to
13 avoid unwarranted sentence disparity among defendants with
14 similar records, because it's very -- it would be very easy
15 for you to be sentenced above guidelines here, given your
16 criminal history. It looks like, Mr. Madge, you've taken all
17 the right steps and you haven't played games with us here
18 today during this process, and we respect that. We appreciate
19 that. So thank you for doing that, Mr. Madge.

20 So based on all of those factors, it is the Court's
21 -- it is the judgment and sentence of this Court that this
22 defendant, Mr. Keilon L. Madge, is hereby committed to the
23 custody of the Bureau of Prisons for 180 months on Count 2.
24 Upon release from imprisonment the defendant shall be placed
25 on supervised release for five years on Count 2. Upon release

1 -- since the defendant does not have ability to pay a fine,
2 the fine is waived. It is further ordered the defendant shall
3 pay to the United States a special assessment of \$100, which
4 shall be due immediately.

5 While on supervised release the defendant shall
6 comply with the mandatory and standard conditions which have
7 been adopted by this Court. In addition, the defendant shall
8 also comply with special conditions listed in the presentence
9 investigation report.

10 Mr. Madge, you have 14 days to appeal this decision.
11 You've waived your right to appeal in your plea agreement.

12 Mr. Hughes, what else do we need to talk about, sir?

13 MR. HUGHES: I don't believe I know, but would you,
14 please, for the sake of -- I didn't hear --

15 THE COURT: 180 months.

16 MR. HUGHES: One eight zero?

17 THE COURT: One eight zero, yes, sir.

18 MR. HUGHES: Yes, sir.

19 THE COURT: You have some counts to dismiss too, I
20 believe, don't you? He pled guilty to Count 2 of a
21 three-count complaint, I believe.

22 MR. HUGHES: And I formally dismiss the remaining
23 two counts, Your Honor.

24 THE COURT: All right. All right. Thank you. Mr.
25 Pickett, what else do we need to talk about? I know that was

1 one thing you were getting ready to take up here.

2 MR. PICKETT: The dismissal --

3 THE COURT: Oh, RDAP program. I'll recommend him
4 for the RDAP program. You know, Mr. Madge, this is just what
5 you make of it. I'm sure you've been in and out of treatment
6 your career here. This -- hopefully if you put your heart
7 into it, will be a meaningful opportunity for you to change
8 your life and -- and deal with this addiction issue which you
9 obviously suffer.

10 I'm sorry, Mr. Pickett, anything else?

11 MR. PICKETT: No, Judge. That is what I was wanting
12 to address. And I didn't -- I didn't hear you correct, but I
13 did hear you correct, so --

14 THE COURT: Okay.

15 MR. PICKETT: -- that's all.

16 THE COURT: Good luck to you. Thank you.

17 (Proceedings concluded at 11:24 a.m.)

18 C E R T I F I C A T E

19 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
20 THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

21

22 /s/Regina A. Lambrecht
23 REGINA A. LAMBRECHT, RDR, CRR
Official Court Reporter

24 February 25, 2020
DATE

25